

1-
C O U N C I L C O M M U N I C A T I O N

TO: THE CITY COUNCIL

COUNCIL MEETING DATE: MARCH 1, 1989

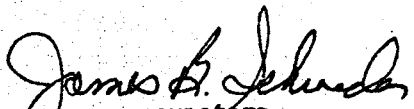
FROM: THE CITY MANAGER'S OFFICE

SUBJECT: SET PUBLIC HEARING - OPTIONS ASSESSMENT REPORT - GENERAL PLAN UPDATE

INDICATED ACTION: Set a public hearing for 7:30 p.m., Wednesday, March 15, 1989 to consider the Options Assessment Report - General Plan Update, and to receive Planning Commission's recommendation.

BACKGROUND INFORMATION: The Options Assessment Report was presented to the City Council and Planning Commission by representatives of Jones and Stokes Associates, Inc. and J. Laurence Mintier at a joint special meeting on January 25, 1989.

The Planning Commission's hearing on this matter is scheduled for Monday, February 27, 1989. The report of that hearing will be available to the City Council on March 1, 1989.


JAMES B. SCHROEDER
Community Development Director

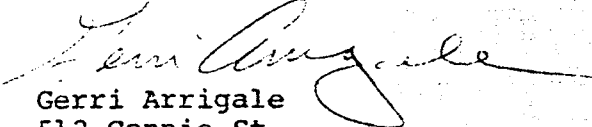
January 24, 1989

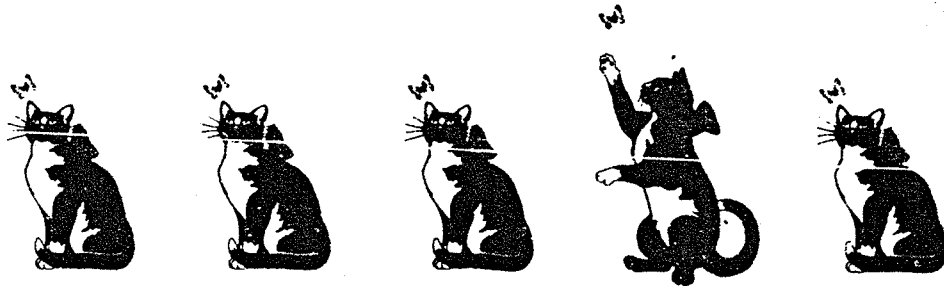
City Council
City of Lodi

In regard to your meeting Wednesday to discuss the General Plan for the City of Lodi, I strongly urge you to consider Option 1. Lodi is a lovely city now. Please don't encourage greater growth.

Let's keep Lodi a safe and healthy place to live - more people - more problems.

Thank you for your consideration.


Gerri Arrigale
512 Connie St
Lodi, Ca 95240



CITY COUNCIL MEETING
MARCH 1, 1989

PLANNING COMMISSION
REPORT

Community Development Director Schroeder presented the following Planning Commission Report of the Planning Commission Meeting of February 15, 1989:

CC-35

FOR ACTION OF THE CITY COUNCIL

1. Recommended that the Land Use Element of the Lodi General Plan be amended by redesignating the south 127.7 feet of Parcels 1 and 2 as shown on Tentative Parcel Map 89 P 001 from Residential - Low Density to office Institutional and the north 335 feet ± (Southwest corner of West Vine Street and Interlaken Drive) of Parcel 3 of the same map from Office-Institutional to Residential-Low Density (i.e. 2414 West Vine Street - APN 027-040-40 and 1000 South Lower Sacramento Road - APN 027-0040-49).
2. Recommended that the south 227.7 feet of Parcels 1 and 2 as shown on Tentative Parcel Map 83 P 001 be rezoned from P-D(25) Planned Development District No. 25 to R-C-P, Residential-Commercial-Professional to P-D(25) Planned Development District No. 25 conforming to Residential Single-Family (i.e. 2414 West Vine Street - APN 027-040-40 and 1000 South Lower Sacramento Road - APN 027-040-49).
3. Recommended that a Negative Declaration as filed by the Community Development Director be certified as adequate environmental documentation on the above projects.

On motion of Council Member Hinchman, Olson second, the City Council set the heretofore listed items 1, 2, and 3 for public hearing at the regular council meeting of April 5, 1989.

OF INTEREST TO THE COUNCIL

1. Conditionally approved the Tentative Parcel Map (90 P 001) to create three parcels by resubdividing the block bounded by West Vine Street, Interlaken Drive, St. Moritz Drive and Lower Sacramento Road (i.e. 2414 West Vine Street - APN 027-040-40 and 1000 South Lower Sacramento Road - APN 027-040-49) in an area zoned P-D(25) Planned Development District No. 25 and R-C-P, Residential-Commercial-Professional as requested by Glen I. Baumbach, Baumbach and Piazza, Consulting Engineers on behalf of Dwight Filley, et al and Dr. Chris Keszler, et al.

As part of the above action the Planning Commission approved a Lot Line Adjustment between 2414 West Vine Street (APN 027-040-40) and 1000 South Lower Sacramento Road (APN 027-040-49).

CITY COUNCIL MEETING
MARCH 1, 1989

2. Conditionally approved the Revised Tentative Subdivision Map of Sunwest, Unit No. 9 (89 S 001), a 3.7 acre, 12 lot single-family residential subdivision proposed for the parcel at the southeast corner of Lower Sacramento Road and St. Moritz Drive (APN 027-040-50) in an area zoned P-D(25) Planned Development District No. 25 as requested by Glen I. Baumbach on behalf of Dr. Chris Keszler and Fred Baker.
3. Conditionally approved the Tentative Subdivision Map of Sunwest, Unit No. 10 (89 S 002), a 4.25 acre, 24 lot single-family residential subdivision proposed for the parcel at the northeast corner of Lower Sacramento Road and St. Moritz Drive (Portions of APN 027-040-40 and 49) in an area zoned P-D(25) Planned Development District No. 25 and R-C-P, Residential-Commercial-Professional as requested by Glen I. Baumbach on behalf of Dr. Chris Keszler and Fred Baker.

In a related matter the Planning Commission certified the filing of a Negative Declaration on the above project as adequate environmental documentation.

4. Continued consideration of the referral by the San Joaquin County Planning Commission of the request of J. Jeffrey Kirst on behalf of E. H. Nordman, et al to rezone the parcel at 1 East Woodbridge Road from AG-40 and A-L5 to R1-U to allow a 126 unit residential subdivision (Windwood).
5. Set a public hearing for 7:30 p.m., Monday, February 27, 1989 to consider the Noise Regulation Ordinance as prepared by the City Attorney.
6. Set a public hearing for 7:30 p.m., Monday, February 27, 1989 to consider the Options Assessment Report, General Plan Update, as prepared by Jones and Stokes Associates and J. Laurence Mintier and Associates.

Community Development Director Schroeder also gave the following report of the Planning Commission meeting of February 27, 1989:

FOR ACTION OF THE CITY COUNCIL

1. Recommended that Option 2, as outlined in the Options Assessment Report, General Plan Update, as prepared by Jones and Stokes Associates and J. Laurence Mintier and Associates be the preferred Option and that the 2% growth rate be based on population rather than dwelling units.

CITY COUNCIL MEETING
MARCH 1, 1989

2. **Recommended the adoption of a Noise Regulation Ordinance as outlined in Draft 6 as prepared by the City Attorney.**

OF INTEREST TO THE CITY COUNCIL

1. **Set a public hearing for 7:30 p.m., Monday, March 13, 1989 to consider the request of David B. and Kimberly G. Young for a Use Permit for a residential day care center for 12 children at 327 East Oak Street in an area zoned R-1, Single-Family (Eastside).**

MEMO

TO: City Manager

FROM: Community Development Director

SUBJECT: Planning Commission Actions
February 13, 1989

DATE: February 15, 1989

For Action Of The City Council

1. Recommended that the Land Use Element of the Lodi General Plan be amended by redesignating the south 127.7 feet of Parcels 1 and 2 as shown on Tentative Parcel Map 89 P 001 (see attached) from Residential - **Low** Density to Office Institutional and the north **335** feet + (Southwest corner of West Vine Street and Interlaken Drive) of Parcel **3** of the same map from Office-Institutional to Residential-Low Density (i.e. 2414 West Vine Street - APN 027-040-40 and 1000 So. Lower Sacramento Road - APN 027-040-49).
2. Recommended that the south 127.7 feet of Parcels **1** and 2 as shown on Tentative Parcel Map 89 P 001 **be** rezoned from P-D(25) Planned Development District No. 25 to R-C-P Residential-Commercial-Professional and to rezone the north 335 feet **+** of Parcel **3** **as** shown on the same map from R-C-P, Residential-Commercial-Professional **to** P-D(25) Planned Development District No. 25 conforming to Residential Single-Family (i.e. 2414 West Vine Street - APN 027-040-40 and 1000 So. Lower Sacramento Road - APN 027-040-49).
3. Recommended that a Negative Declaration as filed by the Community Development Director **be** certified as adequate environmental documentation on the above projects.

Of Interest To The City Council

1. Conditionally approved the Tentative Parcel Map (90 P 001) **to** create three parcels by resubdividing the block bounded by West Vine Street, Interlaken Drive, St. Moritz Drive and Lower Sacramento Road (i.e. 2414 West Vine Street - APN 027-040-40 and 1000 So. Lower Sacramento Road - APN 027-040-49) in an area zoned P-D(25) Planned Development District No. 25 and R-C-P, Residential-Commercial-Professional as requested by Glen I. Baumbach, Baumbach and Piazza, Consulting Engineers on behalf of Dwight Filley, et al and Dr. Chris Keszler, et al.

As part of the above action the Planning Commission approved a Lot Line Adjustment between 2414 West Vine Street (APN 027-040-40) and 1000 So. Lower Sacramento Road (APN 027-040-49).

MEMO

February 15, 1989

Page 2.

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3. Conditionally approved the Tentative Subdivision Map of Sunwest, Unit No.10 (89 S 002), a 4.25 acre, 24 lot single-family residential subdivision proposed for the parcel at the northeast corner of Lower Sacramento Road and St. Moritz Drive (Portions of APN 027-040-40 and 49) in an area zoned P-D(25) Planned Development District No.25 and R-C-P, Residential-Commercial-Professional as requested by Glen I Baumbach on behalf of Dr. Chris Keszler and Fred Baker.

In a related matter the Planning Commission certified the filing of a Negative Declaration on the above project as adequate environmental documentation.

4. Continued consideration of the referral by the San Joaquin County Planning Commission of the request of J. Jeffrey Kirst on behalf of E. H. Nordman, et al to rezone the parcel at 1 East Woodbridge Road from AG-40 and A-L5 to R1-U to allow a 126 unit residential subdivision (Windwood).
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CHANGE FROM OFFICE-INSTITUTION TO RESIDENTIAL LOW-DENSITY

COMMUNITY HOSPITAL

VINE

STREET

CHANGE FROM
RESIDENTIAL LOW-DENSITY-
TO OFFICE-INSTITUTION

REV-20

SACRAMENTO

RECORD

\$7.

MORITZ S DRIVE

"S3A4557 NO. 9"

DRIVE

GRENOBLE DR.

SNWST' MI

ST ANTON DR.

!E "SUNWEST NR. 1"

GEN'L PLAN AMENDMENT

**RECLASSIFY GP DESIGNATIONS
FILLEY, ET AL & KESZLER, ET AL**

89-P-001

2-13-89

[illegible]

REZONE FROM PD-25 TO R-CP

SCALE: 10-80.

272

GRENoble DR.

SUNWEST NO. 7

AND GENERAL PLAN AMENDMENT
FILLEE, ET AL & KESZLER, ET AL

89-P-001

2-13-89

DECLARATION OF NAILING

On March 10, 1989 in the City of Lodi, San Joaquin County, California, I deposited in the United States mail, envelopes with first-class postage prepaid thereon, containing a copy of the Notice attached hereto, marked Exhibit "A"; said envelopes were addressed as is more particularly shown on Exhibit "B" attached hereto.

There is a regular daily communication by mail between the City of Lodi, California, and the places to which said envelopes were addressed. - Lodi,

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 10, 1989, at Lodi, California.

ALICE M. REIMCHE
City Clerk

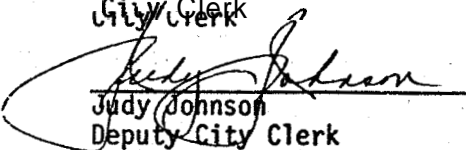

Judy Johnson
Deputy City Clerk

EXHIBIT A

NOTICE OF PUBLIC HEARING

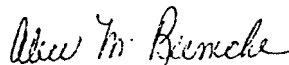
TO CONSIDER THE PLANNING COMMISSION'S RECOMMENDATION THAT THE LAND USE ELEMENT OF THE LODI GENERAL PLAN BE AMENDED BY REDESIGNATING THE SOUTH 127.7 FEET OF PARCELS 1 AND 2 AS SHOWN ON TENTATIVE PARCEL MAP 89 P 001 FROM RESIDENTIAL - LOW DENSITY TO OFFICE INSTITUTIONAL AND THE NORTH 335 FEET ± (SOUTHWEST CORNER OF WEST VINE STREET AND INTERLAKEN DRIVE) OF PARCEL 3 OF THE SAME MAP FROM OFFICE-INSTITUTIONAL TO RESIDENTIAL-LOW DENSITY (I.E. 2414 WEST VINE STREET - APN 027-040-40 AND 1000 SOUTH LOWER SACRAMENTO ROAD - APN 027-040-49).

NOTICE IS HEREBY GIVEN that on Wednesday, April 5, 1989 at the hour of 7:30 p.m., or as soon thereafter as the matter may be heard, the Lodi City Council, will conduct a public hearing to consider the Planning Commission's recommendation that the Land Use Element of the Lodi General Plan be amended by redesignating the south 127.7 feet of Parcels 1 and 2 as shown on tentative parcel map 89 P 001 from Residential-Low Density to Office Institutional and the north 335 feet ± (Southwest corner of West Vine Street and Interlaken Drive) of Parcel 3 of the same map from Office-Institutional to Residential-Low Density (I.E. 2414 West Vine Street - APN 027-040-40 and 1000 South Lower Sacramento Road - APN 027-040-49).

Information regarding this item may be obtained in the office of the Community Development Director at 221 West Pine Street, Lodi, California. All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk at any time prior to the hearing scheduled herein and oral statements may be made at said hearing.

If you challenge the subject matter in court you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice or in written correspondence delivered to the City Clerk, 221 West Pine Street, Lodi, California, at or prior to, the Public Hearing.

By Order Of the Lodi City Council:


Alice M. Reincke
City Clerk

Dated: March 1, 1989

Approved as to form:


Bobby W. McNatt
City Attorney

PH/10
TXTA.02D

MAILING LIST FOR: SUNWEST 9110 FILLEY/KESZLER PARCEL 114P						
file	grk	AP#	OWNERS NAME	MAILING ADDRESS	CITY, STATE	ZIP
		021-04-10	T.M. & T.T. KIRIU	1532 N. LWR SAC. RD	LODI	95242
		11	PHYLLIS VLAVIANOS	15288		
		12	A. & M. VALENTINE	22 POWERS AVE	SAN FRANCISCO	94110
		29	ROMAN CATHOLIC BKLOP-SKTIN	218 S. SCHOOL ST	LODI	95240
		30	A. & O. ANAGNOS	801 E. ROUTE 12		
		31	TEMPLE BAPTIST CHURCH ^{LODI}	801 S. LWR. SAC. RD.		95242
		40	DNIGHT FILLEY	1224 DEVINE DR.		95240
		42	W. & D. PALlesen	900 INTERLAKEN		95242
		43	R. & K.J. JOHNSON	2342 W. VINE		
		44	J. & L. TIPTON	2336 W. VINE		
		49	CHRIS KESZLER	317 W. LODI		95240
		50	ditto			
		021-05-5	L. F. & M.H. CHRISTENSEN	179 E TAYLOR RD.		95242
		14	D. & O. GENEKE	P.O. BOX 410		95241
		22	E. & I. REISWIL	15671 N. LWR. SAC.		95242
		021-06-22	V.V. & M.L. GOOLER	15551 N. LWR SAC.		
		23	ROSE FORE	15511		
		24	ELENI ALIFERIS	15485		
		25	L. & M. WILBURN	15475		
		27	W. & M. TANCIS	681 TAYLOR RD		95242
		28	BETTY KATZAKIAN	3150 NOTRE DAME AIB	SACRAMENTO	95826
		29	R.K. & M.A. ZAPARA	695 E. TAYLOR RD	LODI	95242
		34	BETTY KATZAKIAN	3150 NOTRE DAME AIB	SACRAMENTO	95826
		35	ditto			
		021-08-47	LODI COMMUNITY HOSE % FAIR VAL	11022 SANTA MANCA	LOS ANGELES	90025
		56	ditto		"	"
		65	MURIEL ROGET % ditto	"	"	
		87	LODI COMMUNITY HOSE % ditto	"	"	
		021-21-1	M. & E. CASTENEDA	2325 W VINE	LODI	95242
		2	W. & R. NICHOLSON	875 WESTWIND DR		
		3	D. & G. BOHNET	867 WESTWIND DR		
		021-22-10	W.A. & E. RUDE	2322 W. VINE		
		11	G. & S. MAAS	2328		
		14	J.T. & E. ODAMA	2321		
		15	K. & S. ISHIMARU	2331 SUNWEST DR.		
		16	H.J. & P.L. QUENZER	2322		
		021-25-1	SUNWEST INVEST. PTP.	808 EVERT CT		
		2	E. & I. KELANGER	2372 BRITANY LN.		
		3	A. & O. ANAGNOS	2368		

EXHIBIT B

MAILING LIST FOR: SUNWEST 9-10 FILLEY/KESLER PARCEL MAP						FILE #
flche	grkl	AP#	OWNERS NAME	MAILING ADDRESS	CITY, STATE	ZIP
		27-25-4	C. & J. DILLON	P.O. Box 2180	LODI	95241
		14	G. & P. KISHIDA	918 EVERT CT		95242
		15	DOUGLAS TROVINGER	2359 BRITANNY LN		
		16	R. & P. BOBER	2367		
		21	A. & K. NICOLAU	2366 ST. ANTON DR		
		22	SUNWEST INVEST. PTP	808 EVERT CT		
		30	A.F. & G.C. BAKER	317 W. LODI		95240
		31	R C. & L. KESLER	816 W. LODI		
		32	ditto			
		027-26-16	R.D. & M.H. ELISON	2375 ST. ANTON DR.		95242
		17	C.B. KRAMER DEVEL. CO.	330 S. FAIRMONT		
		18	T. & A. GARCIA	2359 ST. ANTON DR.		
		19	R. & P. MARTI	2355		
215	21	44	R. & P. HARMESON	1016 S. INTERLAKEN		95240
		027-27-2	C. & L. KESLER	317 W. LODI		
		3	ditto			
		4	ditto			
		11	ditto			
		12	ditto			
		13	ditto			
		14	ditto			
		15	ditto			
		16	ditto			
		17	ditto			
324	10	18	ditto			

EXHIBIT B

DECLARATION OF MAILING

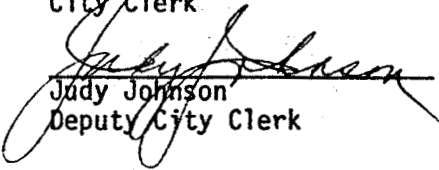
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There is a regular daily communication by mail between the City of Lodi, California, and the places to which said envelopes were addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 10, 1989, at Lodi, California.

ALICE M. REIMCHE
City Clerk



Judy Johnson
Deputy City Clerk

NOTICE OF PUBLIC HEARING TO CONSIDER
THE PLANNING COMMISSION'S RECOMMENDATION **TO** CERTIFY
THE FILING OF A NEGATIVE DECLARATION
BY THE COMMUNITY DEVELOPMENT DIRECTOR AS
ADEQUATE ENVIRONMENTAL DOCUMENTATION


NOTICE IS HEREBY GIVEN that on Wednesday, April 5, 1989, at the hour of 7:30 p.m., or as soon thereafter as the matter may be heard, the Lodi City Council will conduct a public hearing to consider the Planning Commission's recommendation to certify the filing of a negative declaration **by** the Community Development Director as adequate environmental documentation on the following projects:

1. Recommended that the Land Use Element of the Lodi General Plan **be** amended **by** redesignating the south 127.7 feet of Parcels 1 and 2 **as** shown on tentative parcel map 89 P 001 from Residential-Low Density **to** Office Institutional and the north 335 feet + (Southwest corner of West Vine Street and Interlaken Drive) of Parcel 3 of the same map from Office-Institutional to Residential-Low Density (i.e. 2414 West Vine Street - APN 027-040-40 and 1000 South Lower Sacramento Road - APN 027-040-49).
2. Recommended that the **south** 127.7 feet of Parcels 1 and 2 as shown on Tentative Parcel Map 89 P 001 be rezoned from P-D (25) Planned Development District No. 25 to R-C-P, Residential- Commercial-Professional and to rezone the north 335 feet + of Parcel 3 as shown on the same map from R-C-P, Residential-Commercial-Professional to P-D (25) Planned Development District No. 25 conforming to Residential Single-Family (i.e. 2414 West Vine Street - APN 027-040-40 and 1000 South Lower Sacramento Road - APN 027-040-49).

Information regarding this item may be obtained in the office of the Community Development Director at 221 West Pine Street, Lodi, California. All interested persons are invited to present their views and comments on this matter. Written statements may **be** filed **with** the City Clerk at any time prior to the hearing scheduled herein and oral statements may be made at said hearing.


- Y-
If you challenge the subject matter in court you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the City Clerk, **221 West Pine Street, Lodi**, at or prior to, the public hearing.

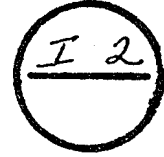
By Order Of The Lodi City Council:


Alice M. Reimche
City Clerk

Dated: March 1, 1989

Approved as to form:


Bobby W. McNatt
City Attorney



MEMORANDUM, City of Lodi , Community Development Department

TO: CITY MANAGER
FROM: COMMUNITY DEVELOPMENT DIRECTOR
DATE: FEBRUARY 28, 1989
SUBJECT: PLANNING COMMISSION ACTIONS - FEBRUARY 27, 1989

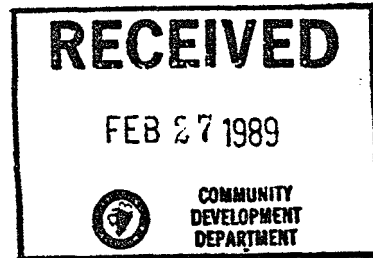
FOR ACTION OF THE CITY COUNCIL

1. Recommended that Option 2, as outlined in the Options Assessment Report, General Plan Update, as prepared by Jones and Stokes Associates and J. Laurence Mintier and Associates be the preferred Option and that the 2% growth rate be based on population rather than dwelling units .
2. Recommended the adoption of a Noise Regulation Ordinance as outlined in Draft 6 as prepared by the City Attorney.

OF INTEREST TO THE CITY COUNCIL

1. Set a public hearing for 7:30 p.m., Monday, March 13, 1989 to consider the request of David B. and Kimberly G. Young for a Use Permit for a residential day care center for 12 children at 327 East Oak Street in an area zoned R-1*, Single-Family (Eastside).

L.I.F.E. COMMITTEE
February 27, 1989



TO: Lodi Planning Commission

From: Ernest F. Johnson, President

Re: Options Assessment Report, General Plan Update

On behalf of the L.I.F.E. Committee (Lodians In-favor of Free Enterprise), the Petitioner/Respondent in the Appeal from the Superior Court of San Joaquin County Superior Court Case No 178641 and Third Appellate District Court of Appeal Case No. 3 Civil 26034, we would like to submit the following comments and objections:

I. We renew our opposition to Option 1 for all of the same reasons and on the same grounds as stated in our original complaint in the matter of L.I.F.E. vs. Lodi, because it will interfere with the orderly annexation process, is an unreasonable exercise of the "police Power", creates an illegal and invalid general plan, and fails to adequately provide for Lodi's fair share of regional housing needs.

II. The Report fails to adequately discuss the impact of limited growth on the supply and cost of housing for all segments of the community and more specifically those who can least afford higher costs such as the young just starting out; and, the elderly on fixed incomes who cannot afford price increases due to shortages which will be created by the growth restrictions of Options 1 and 2.

III. The Report fails to adequately discuss the impact of restricting growth upon housing rental prices and opportunities for all segments of the community particularly because there already exists a tight rental market.

IV. The Report fails to adequately discuss the inability of churches, community center advocates, and other social, cultural, and business enterprises to find adequate land under Option 1.

V. The Report is inadequate because it is predicated upon adopting arbitrary and inflexible rates of growth which do not allow for changing times, conditions, and circumstances.

VI. The Report fails to discuss the costly process of defending limited growth against legal attack particularly because California Evidence Code Section 669.5 establishes a presumption that growth limitation ordinances adversely affect regional housing needs and places the burden of proof on the City to show that the ordinance is necessary to promote public health, safety, and welfare. It is also the right of litigants to recover attorney fees and costs from the City of Lodi.

VII. The Report fails to adequately discuss the impacts of other cities and towns growing up around and adjacent to Lodi.

It tends to appear from the Report that Lodi is in a vacuum and that all development will stop and that agricultural land will be preserved by Lodi limiting its growth when in fact the reverse is true. For example Woodbridge developers are discussing relocating and expanding the sewer plant; Grupe Company has bought all or part of the Baleri Ranch adjacent to "Saddle City" and intends to develop there; and, Stockton continues to grow North and West with the massive Spanos development, Grupe Morada development, and etc.; and in the future Thornton will **also** likely grow.

VIII. The Report fails to take into account that growth in the City of Lodi will take pressure off the County of San Joaquin to allow growth in the County to compensate for limited City growth. It is generally understood that Cities can better provide more efficient housing opportunities than can the County.

IX. The Report fails to discuss the loss of political, economic, social, and cultural influence with limited growth. Examples of this can be **seen** in the move to change the name of Lodi Unified School District to another name; also, the independence of Woodbridge to go its own way; and, the inability for Lodi to accommodate new industrial and commercial opportunities due to limited growth.

We ask that the Planning Commission and City of Lodi in general not be lead down the primrose path or wear rose-colored glasses by not addressing the negative and serious problems and consequences of Options 1 and 2, some of which are set forth **above**.

Very truly yours


Ernest F. Jenson

President, L.I.F.E. Committee

DRAFT 6

ORDINANCE NO. ---

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI
ENACTING A NOISE REGULATION ORDINANCE.

BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

SECTION 1. Lodi Municipal Code Title 9 - Public Peace, Morals And Welfare is hereby amended by adding Chapter 9.20 entitled "Noise Regulation", as follows:

Sections:

9.20.010. Definitions:

- A. "Ambient Noise" means the all-encompassing noise associated with a given environment, usually being a composite of **sounds** with many sources near and far as determined at any specific point.
- B. "Clearly Audible" means those sounds or noises which can be heard by any person of average or normal hearing capability.
- C. "Commercial Noise" means that noise or sound which is generated or created by the use, operation or maintenance of any commercial activity, including but not limited to the operation of machinery, construction equipment, manufacturing equipment, motor vehicles operated in conjunction with such use, and shall include but not be limited to compressors, fans, air conditioning units, and sound amplification systems utilized in conjunction with such functions.

- D. "Decibel" (db) means a unit of level which denotes the ratio between two quantities which are proportional to power; the number of decibels corresponding to the ratio of two amounts of power is ten times the logarithm to the base ten of this ratio; a unit of measure of sound (noise) level.
- E. "Emergency Work" means work made necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from eminent exposure to danger or damage, or work by public or private utilities when restoring utility service.
- F. "Motor Vehicle" includes any car, truck, motorcycle, motor scooter, and any and all self-propelled vehicles, as defined in the California Vehicle Code, including but not limited to mini-bikes and go-carts.
- G. "Noise Level" means the same as "sound level". The terms may be used interchangeably.
- H. "Sound Level" means the same as "noise level"; in decibels, that quantity measured with a sound level meter as defined herein, by use of the "A" frequency weighting and "fast" time averaging unless some other time averaging is specified.
- I. "Sound Level Meter" means an instrument of measurement of sound including a microphone, amplifier, an attenuator, networks for at

least the standardized "A" frequency weighting, and an indicating instrument having at least the standardized dynamic characteristic "**fast**", as specified in the American National Standards Institute specifications **for** sound level meters, **S1.4-1371**.

9.20.020. Public Nuisance Noise.

The following special noise restrictions are hereby established without regard to their sound level impact and may be enforced without the prerequisite of a sound level measurement.

A. General Noise Regulations:

Notwithstanding any other provision of this Chapter, and in addition thereto, it **shall** be unlawful for any persons to willfully make or continue or permit or cause to be made or continued, any loud, unnecessary or unusual noise which unreasonably disturbs the peace and quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal noise sensitivity.

B. The standards which shall be considered in determining whether a violation of the provision of this Section exists shall include, but not be limited to, the following:

1. The volume of the noise;
2. The intensity of the noise;
3. Whether the nature of the noise is usual or unusual

for the area and hour;

4. Whether the origin of the noise **s natural** or unnatural;
5. The volume and intensity of the background noise, if any;
6. The proximity of the noise to residential sleeping facilities;
7. The nature and the zoning **of** the area within which the noise emanates;
8. The density of the inhabitation of the area within which the noise emanates;
9. The time of day **or** night the noise occurs;
10. The duration of the noise;
11. Whether the noise **is** produced **by a commercial or noncommercial** activity.

This section shall be inapplicable to emergency work as defined herein.

9.20.030. Excessive, Offensive or Disturbing Noise.

The following activities are declared to cause excessive, offensive or disturbing noise in violation of this section, but said enumeration shall not be deemed exclusive:

- A. It shall be unlawful for any person to sound any horn or other signalling device on any vehicle except **as** an emergency or danger warning signal. This provision shall be inapplicable to the

sounding of any horn, bell, whistle, siren or other audible warning device which is operated in compliance with section 7604 of the California Public Utilities Code, or with any other state or federal provision governing railroad operations.

- B. It shall be unlawful to play or operate any drum, radio, phonograph, loud speaker, sound amplifier, stereo, television, or other similar sound system, whether mobile or from a fixed location upon the public streets, public right of way or in public parks in such a fashion that it is clearly audible at a distance of fifty feet. The City Council hereby finds and declares that any sound or noise audible at such distance endangers the public safety and welfare by interference with normal human capability for hearing nearby traffic movement and warning signals. This section shall be inapplicable to radio systems operated under or pursuant to Federal Communications Commission licenses in the regular course of business.

It is hereby found and declared as a matter of legislative policy that the operation of the aforementioned equipment or instruments on the public streets and rights of way adjacent to public parks during the hours between 10:00 p.m. and 7:00 a.m. in such a manner as to be clearly audible at a distance of fifty (50) feet or greater shall constitute prima facie evidence of a violation of this section.

- C. It shall be unlawful for any person, firm or corporation to cause, permit, or generate any noise or sound as described herein between the hours of 10:00 p.m. and 7:00 am. which exceeds the ambient noise level at the property line of any residential property (or, if a condominium or apartment house within any adjoining apartment) as determined at the time of such reading by more than five (5) decibels. This section shall be applicable whether such noise or sound is of a commercial or noncommercial nature.

9.20.040. Animal Noises.

Notwithstanding any other provision of this Code, it shall be unlawful for any person to keep or maintain, or to permit the keeping or maintenance upon any premises owned, occupied or controlled by such person, any animal or animals which by any frequent or long-continued noise shall disturb or cause discomfort to any reasonable person of normal noise sensitivity. For purposes of this section, "frequent or long-continued noise" shall mean any noise which is essentially continuous for ten (10) minutes aggregate during any sixty (60) minute period.

This section shall not apply to any kennel, cattery or animal hospital operated legally within the City of today.

9.20.050. Exemptions.

This part shall not apply to the following:

- A Sirens or other similar emergency warning devices located upon any emergency vehicle as defined by the Vehicle Code, or upon the premises of any public safety agency.
- B. Any bell, siren or similar device on any vehicle, which is required by law, and which is automatically activated by placing the vehicle transmission in reverse, or by any backing movement.
- C Any sound equipment operating under a City license or permit, or being utilized for an activity subject to First Amendment protection.
- D Emergency repair work as defined herein.
- E Events in public parks or other public places, sponsored by the City.
- F. Noise necessarily generated in conjunction with health or sanitation services, including but not limited to refuse collection.

9.20.060. Penalty.

A violation of any provision of this part shall be an infraction, punishable by a fine not exceeding two hundred and fifty dollars (\$250).

9.20.070. Enforcement. .

The provisions of this part may be enforced by any peace officer, or the Director of Community Development or his/her designee.

9.20.080. The provisions of this ordinance are severable. If any part hereof is deemed unenforceable or invalid by a court of competent jurisdiction, all other provisions hereof shall remain in full force and effect.

SECTION 2. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 3. This ordinance shall be published one time in the "Lodi News Sentinel", a daily newspaper of general circulation printed and published in the City of Lodi and shall be in force and take effect thirty days from and after its passage and approval.

Approved this day of

JAMES W. PINKERTON, JR.
Mayor

Attest:

ALICE M. REIMCHE
City Clerk